Building Blocks for Effective Housing Elements

Governmental Constraints

Land-Use Controls

Government Code Section 65583(a) requires "An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels,…including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures…".

Although local ordinances and policies are enacted to protect the health and safety of citizens and further the general welfare, it is useful to periodically reexamine local ordinances/policies to determine whether, under current conditions, they are accomplishing their intended purpose or if in practice constitute a barrier to the maintenance, improvement or development of housing for all income levels.

Such an examination may reveal that certain policies have a disproportionate or negative impact on the development of particular housing types (e.g., multifamily) or on housing developed for low- or moderate-income households.

Ordinances, policies or practices which have the effect of excluding housing affordable to low- and moderate-income households may also violate State and federal fair housing laws which prohibit land-use requirements that discriminate or have the effect of discriminating against affordable housing.

The analysis of potential governmental constraints should describe past or current efforts to remove governmental constraints. Where the analyses identifies that constraints exist, the element should include program responses to mitigate the effects of the constraint. Each analysis should use specific objective data, quantified where possible. A determination should be made for each potential constraint as to whether it poses as an actual constraint. The analysis should identify the specific standards and processes and evaluate their impact, including cumulatively, on the supply and affordability of housing.

I. REQUISITE ANALYSIS

The element should identify all relevant land-use controls, discuss impacts on the cost and supply of housing and evaluate the cumulative impacts of standards, including whether development standards impede the ability to achieve maximum allowable densities. The analysis must also make a determination whether land-use controls constrain the development of multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing,

single-room occupancy units, emergency shelters, and transitional housing. The types of land-use controls appropriate to analyze will vary from jurisdiction to jurisdiction.

The following is a list of typical development standards which should be identified and analyzed by zoning category:

- density
- parking requirements (including standards for enclosed or covered and guest spaces)
- lot coverage
- height limits
- lot size requirements
- unit size requirements
- floor area ratios
- setbacks
- open space requirements
- growth controls including urban growth boundaries and any moratoria and prohibitions against multifamily housing

In addition, as appropriate, discuss efforts to remove governmental constraints, especially relating to single-room occupancy units, supportive housing, transitional housing, and emergency shelters.

Important Information

In accordance with recently enacted law Chapter 633 of Statutes 2007 (SB 2), transitional housing and supportive housing must be considered a residential use of property, and be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. If these conditions do not currently apply, a programmatic action must be included to address the constraint.

The following are sample tables to assist in organizing critical information pertaining to housing element requirements. The information provided in the tables should be tailored to the jurisdiction and followed by appropriate analysis. These sample tables are not intended to be a substitute for addressing the analytical requirements described in the statute.

Development Standards

Zone District	Bldg Height	Lot Width	Minimum Yard Setback				Minimum Lot Area (sq. ft.)	Lot Area Per DU (sq. ft.)	Parking Spaces Per DU	Minimum Open Space (sq. ft.)
			Front	Side	Rear	Front				

Parking

Excessive parking standards can pose a significant constraint of housing development by increasing development costs and reducing the potential land availability for project amenities or additional units and are not reflective of actual parking demand. Therefore, the element should include an analysis of the jurisdiction's parking standards by zone. The analysis should examine whether parking standards impede a developer's ability to achieve maximum densities, and if there are provisions in place to provide parking reductions where less need is demonstrated, particularly for persons with disabilities, the elderly, affordable housing, and infill and transit-oriented development. In addition, the jurisdiction should verify that the density bonus ordinance complies with parking requirements per Government Code Section 65915(p):

> "(p) (1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:
>   (A) Zero to one bedrooms: one onsite parking space.
>   (B) Two to three bedrooms: two onsite parking spaces.
>   (C) Four and more bedrooms: two and one-half parking spaces.
>
>   (2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may

provide "onsite parking" through tandem parking or uncovered parking, but not through onstreet parking.

(3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section, subject to subdivision (d).

Height Limits

Limitations on height can constrain a development's ability to achieve maximum densities especially in culmination with other development controls. Height limits of two stories or less in multifamily districts is one example of development standards that can constrain achieving maximum densities.

In addition, the analysis should identify floor area ratios and any underlying development standards for mixed-use districts and evaluate the cumulative effect of development standards such height limits on the ability to achieve maximum permitted densities and the cost and supply of housing.

Growth Control or Similar Ordinances

Ordinances, policies, procedures, or measures imposed by the local government that specifically limit the amount or timing of residential development should be analyzed as potential governmental constraints and mitigated, where necessary. The analysis will vary depending on the nature of the measure. In general, the measure and its implementation procedures must specifically be described and analyzed for their impact on the cost and supply of housing.

For ordinances which control the number and timing of permits, the element must describe any permit allocation process, allocation timing, specific limits on the number of permits issued per project type, any affordable housing incentives in the allocation process, the method of determining the number of permits to be issued annually and the basis for this determination.

The analysis must also identify and analyze process impacts such as application procedures and requirements (e.g., design review, limits of number of permits or size of project, length of approval, discretionary approval, and how the ordinance operates with rest of the entitlement process, carryovers, and financing of the project).

The analysis should demonstrate how the policy or ordinance accommodates the locality's current RHNA for all income groups. If it does not, the element must include a program to mitigate the impacts of the ordinance and allow accommodation of the total housing need.

Examples of types of policies or requirements that should be analyzed include:

- systematic (area-wide) residential down-zoning;
- urban limit line, growth boundaries, or perimeter greenbelt;
- annexation restrictions;
- building permit or other residential development caps;
- voter approval for up-zoning, rezoning or general plan changes;
- legislative super-majority for up-zoning, rezoning or general plan changes;
- systematic changes to local height and FAR regulations; and
- adequate public facilities ordinances.

The element should not only demonstrate the jurisdiction can accommodate the RHNA at minimum, but must also analyze the impact of the growth management or controls process and procedure on the cost and affordability of housing. Even if the growth control ordinance allows the community to meet its entire RHNA, the ordinance may still be a constraint that requires mitigation because of increased processing costs or timing delays.

The RHNA should not be considered or treated as a ceiling on the development of housing or as a basis for denying housing applications.

Form Based Codes

Jurisdictions that have adopted form-based codes should clearly describe and analyze the following to ensure that the code encourages and facilitates residential development:

<u>Realistic Capacity</u>

- Describe the relationship between General Plan land-use designation and the form-based code. In particular, 1) describe where residential development is allowed; 2) how density requirements found within the General Plan are incorporated; and 3) how the zoning designations under the form-based code relate to the land-use designations of the General Plan.

- The element must describe methodology used to estimate a reasonable residential capacity within the planning period. This methodology should describe density assumptions and consider development standards; buildings types, and use requirements.

Certainty for Residential Development

- Describe the type of the form-based code. For example, some codes only apply to specific areas of the jurisdiction, while others completely replace the older versions of the zoning code or are hybrids between the form-based code and older versions of zoning code.

- Describe performance standards or processes required for residential development under the form-base code. For example, the element could describe permitting requirements, decision making standards, and level of review for residential development in zones regulated by form-based codes.

- Describe any competing uses allowed in building types designated for residential use. If there is not some certainty in the development of residential uses on those sites identified in the sites inventory but are encouraged by incentives only, the element should demonstrate development trends and anticipated uses or include additional provisions.

Zoning Standards Appropriate to Facilitate Residential Development:

- Describe and analyze development standards regulating housing. The analysis must include a description of how the code controls form, bulk, building types, performance standards (e.g., ground floor commercial, 30 percent commercial etc), uses, and any related design criteria.

KEY IDEAS

II. HELPFUL HINTS

Contact local affordable and market-rate housing developers to evaluate land-use controls for possible constraints. The local chapter of the Building Industry Association (BIA), Non Profit Housing of Northern California (NPH), the Southern California Association of Non-Profit Housing (SCANPH), and the San Diego Housing Federation can provide information regarding the developers who are active in the region (see IV. links).

In addition, service providers may provide additional insights on the housing needs of the special needs population such as appropriate unit size for single-room occupancy units or senior housing and the types of services necessary for supportive housing.

Parking

The following are strategies where pricing, supply, and management of motor vehicle parking serving Housing Development near transportation promote economic efficiency.

- Parking is priced to cover the full capital and operating costs of the parking, and paid for separately, rather than bundled with the cost of the housing.

- Provide to residents free transit passes or discounted passes priced at no more than half of retail cost.

- Provide shared-parking between different uses, such as parking that serves housing residents at night and retail customers by day.

- Provide dedicated parking spaces for shared-vehicle only parking.

- Provide for no more that the following maximum parking spaces excluding park-and-ride and transit station replacement parking.

MAXIMUM PARKING SPACES		
Project Location Designation	Bedrooms per Unit	Maximum resident and guest parking spaces per unit
Large City Downtown	0-1	1.0
	2+	1.5
Urban Center	0-1	1.25
	2+	1.75
All Other Areas	0-1	1.5

III. MODEL ANALYSES

Highlighted Jurisdiction- City of San Leandro

IV. LINKS

HCD: Presentation: Housing Strategies to Strengthen Communities and Improve the Quality of Life

HCD: Housing Resource Center: Bibliography on Residential Infill and Related Development Issues

HUD: Regulatory Barriers Clearinghouse

[The Urban Land Institute:](#) Contains many publications and resources on a variety of land-use issues such as smart growth, density, and form-based codes.

[Gaining Ground Informational Data Base on Land Use Regulations](#)

[Senate Local Government Committee Best Practices: Successful Infill Development Strategies and Tactics](#)

[Southern California Association of Non-Profit Housing: Parking Requirements Guide for Affordable Housing Developers](#)

[EPA Report: Parking Spaces / Community Places, Finding the Balance through Smart Growth Solutions](#)

[Sacramento County Zoning Code- Off-Street Parking](#)

[Non-Profit Housing Association of Northern California](#)

[Southern California Association of Non-Profit Housing](#)

[California Building Industry Association](#)

[San Diego Housing Federation](#)